

IT 95-97
Tax Type: INCOME TAX
Issue Federal Change (Individual)

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

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DEPARTMENT OF REVENUE      )  
OF THE STATE OF ILLINOIS  )  
                           )  
          v.               )   No.  
                           )   SSN:  
TAXPAYERS,                )  
                           )  
                           )   Daniel D. Mangiamele  
          Taxpayers        )   Administrative Law Judge  
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RECOMMENDATION FOR DISPOSITION

SYNOPSIS: This matter comes on for hearing pursuant to the taxpayers' timely protest of The Notice of Deficiency issued by the Department for the taxable year ending 1992. At issue is the question of whether the taxpayers paid additional tax and penalty due as result of an additional adjustment resulting from an increase in income as indicated in Taxpayer's Federal Return. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The Department's prima facie case, inclusive of all jurisdictional elements was established by the admission into evidence of the Notice of Deficiency showing a total liability due and owing in the amount of \$482.00.

2. Taxpayers offered no testimonial or documentary evidence.

CONCLUSION OF LAW: On examination of the record established, these taxpayers have failed to demonstrate by the presentation of testimony or through exhibits or argument, evidence sufficient to overcome the

Department's prima facie case of tax liability under the deficiency in question. Accordingly, by such failure it is the determination by the Department that Taxpayers, are subject to the deficiency in the amount of \$482.00 plus penalties and interest for the taxable year ending December 31, 1992.

Once the Notice of Deficiency was admitted into evidence, the amount of tax and penalty established was deemed prima facie true and correct. The Department having established its case, the burden shifted to the taxpayers to overcome it by producing competent evidence as identified with their books and records. *Masini v. Department of Revenue* (1978) 60 Ill. App. 3d 11, 376 N.E. 2d 324. In the instant case, no documentary evidence or testimony was proffered on behalf of the taxpayers with the exception that Taxpayer feels he does not owe the money because of Schedule "C" files with his Federal Return. I, find Schedule "C" is not applicable to this issue in question. Thus, the taxpayers failed to overcome the Department's prima facie case.

Based on the above, I recommend that the Notice of Deficiency, plus any statutory penalties and interest to date be affirmed.

Daniel D. Mangiamele
Administrative Law Judge